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Draft report of the International Law Commission on the work of its fiftieth session

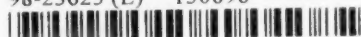
Rapporteur: Mr. Christopher John Robert Dugard

Chapter II**Summary of the work of the Commission at its fiftieth session**

1. The International Law Commission considered the preliminary report of the Special Rapporteur on the topic of "Diplomatic protection", which dealt with the legal nature of diplomatic protection and the nature of the rules governing the topic. It established a working group to consider possible conclusions which might be drawn on the basis of the discussion on the approach to the topic and also to provide directions in respect of issues which should be covered by the report of the Special Rapporteur for the next session of the Commission. At the conclusion of its report, the working group suggested that the Special Rapporteur, in the second report, should concentrate on the issues raised in Chapter I, "Basis for diplomatic protection", of the outline proposed by the working group last year.¹

2. As regards the topic, "Unilateral Acts of States", the Commission examined the first report of the Special Rapporteur. The discussion concentrated mainly on the scope of the topic, the definition and elements of unilateral acts, the approach to the topic and the final form of the Commission's work thereon. There was general endorsement for limiting the topic to unilateral acts of States issued for the purpose of producing international legal effects and for elaborating possible draft articles with commentaries on the matter. The Commission requested the Special Rapporteur, when preparing his second report, to submit draft articles on the definition of unilateral acts and the scope of the draft articles and to proceed further with the examination of the topic, focusing on aspects concerning the elaboration and conditions of validity of the unilateral acts of States.

¹ *Official Records of the General Assembly, Fifty-second Session, Supplement No. 10 (A/52/10, para. 189)*



3. Concerning the topic, "International liability for injurious consequences arising out of acts not prohibited by international law", the Commission adopted on first reading, a set of 17 draft articles with commentaries on prevention of transboundary damage from hazardous activities (chapter VI) and decided to transmit the draft articles to Governments for comments and observations.
4. With regard to the topic, "State responsibility", the Commission considered the first report of the Special Rapporteur, which dealt with general issues relating to the draft, the distinction between "crimes" and "delictual" responsibility, and articles 1 to 15 of part one of the draft. The Commission established a working group to assist the Special Rapporteur in the consideration of various issues during the second reading of the draft articles. The Commission decided to refer draft articles 1 to 15 to the Drafting Committee. The Commission took note of the report of the Drafting Committee on articles 1, 3, 4, 5, 7, 8, 8 *bis*, 9, 10, 15, 15 *bis* and A. The Commission also took note of the deletion of articles 2, 6 and 11 to 14.
5. As regards the topic, "Nationality in relation to the succession of States", the Commission considered the fourth report of the Special Rapporteur and established a working group to consider the question of the possible orientation to be given to the second part of the topic dealing with the nationality of legal persons (chapter VIII). The preliminary conclusions of the working group are annexed to the present report.
6. With respect to the topic, "Reservations to treaties", the Commission considered the third report of the Special Rapporteur concerning the definition of reservations (and interpretative declarations). The Commission adopted seven draft guidelines on definition of reservations, object of reservations, instances on which reservations may be formulated, reservations having territorial scope, reservations formulated when notifying territorial application, reservations formulated jointly and the relationship between definitions and admissibility of reservations.
7. As regards the programme of work of the Commission for the remainder of the quinquennium, the Commission affirmed that the programme set out at its forty-ninth session should be complied with to the extent possible (chapter X, section B).
8. The working group on the long-term programme of work should continue its work at the next session (chapter X, section C).
9. The Commission also decided that Special Rapporteurs should submit their reports in time so as to ensure their prompt availability in all languages before the beginning of the session (chapter X, section D).
10. The Commission was represented at the United Nations Conference of Plenipotentiaries on the Establishment of an International Criminal Court. The Conference expressed its deep gratitude to the International Law Commission (chapter X, section E).
11. The Commission commemorated its fiftieth anniversary by (a) holding a seminar on critical evaluation of the Commission's work and lessons learned for its future; (b) being presented with two publications, namely: "Making Better International Law: the International Law Commission at 50" and "Analytical Guide to the Work of the International Law Commission, 1949-1997"; and (c) the creation of the International Law Commission website maintained by the Codification Division (chapter X, section F).
12. A useful dialogue on subjects of common interest were conducted with the International Court of Justice, the Asian-African Legal Consultative Committee, the Inter-American Juridical Committee and the ad hoc Committee of Legal Advisers on Public International Law of the Council of Europe (chapter X, section J).

13. A training seminar was held with 23 participants, all of different nationalities (chapter X, section K).
 14. A memorial lecture was given in honour of Mr. Gilberto Amado, a former Brazilian member of the Commission (chapter X, section L).
 15. The Commission agreed that its next session be held at the United Nations Office at Geneva from 3 May to 23 July 1999, and that its session for the year 2000 be held from 24 April to 2 June 2000 and from 3 July to 11 August 2000 (chapter X, section H).
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